

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE

Serial Number: 09/663,484

Filing Date: September 13, 2000

Title: SYSTEM AND METHOD FOR MANAGING ROUTER METADATA

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REMARKS

This responds to the Office Action dated on April 6, 2005.

No claims are amended, canceled, and claims or added; as a result, claims 1-7 remain pending in this application.

§102 Rejection of the Claims

Claims 1 and 4 were rejected under 35 U.S.C. § 102(e) for anticipation by Galvin (U.S. 6,298,130). Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). Applicant respectfully submits that the Office Action did not make out a *prima facie* case of anticipation because the claims contain elements not found in the cited art.

For example, claim 1 recites “converting the metadata file into an object model having at least one object.” The Office Action asserts that Galvin teaches the recited element at column 9, lines 40 et seq. Applicant reasserts the argument filed in the response to the Office Action mailed on May 6, 2004, in which Applicant argued that the cited section of Galvin states that incoming information may be converted to metadata and stored in a corporate database and further that local databases may be updated with the metadata in the corporate database. The only conversion referenced in Galvin is converting information to metadata, not converting metadata into an object model. Galvin defines metadata as “pre-analyzed data that can be compactly stored.” Galvin clarifies this, stating that “in a metadata system, for example, selected criteria pertaining to database entities are represented by a letter or number in a coded system, and the data may be stored and transmitted in a very efficient manner because of the compact manner of representation.” (see column 6, line 66 to column 7, line 4). Galvin provides

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examples of such metadata, including agent status, credit rating, marital status, number of children, income level, payment reliability etc. (see column 7, line 62 to column 8, line 12). Thus the metadata in Galvin is already converted from other information that may be used to route incoming calls to an appropriate customer service agent.

In response to Applicant's argument, the Office Action states that "while the converter engine converts incoming information to metadata, the process can also be reversed." The Office Actions sole support for this statement is that "the channel that leads to the database 300 in FIG. 1 is bi-directional..." Applicant respectfully disagrees with this interpretation of FIG. 1. The fact that the channel is indicated as being bi-directional does not lead to a teaching or suggestion that the process can be reversed and that metadata is converted to object data. A bi-directional arrow merely indicates bi-directional flow of data, not a reversible process of data conversion. This bi-directional data flow interpretation is fully supported by Galvin at column 7, lines 15-18 which states that data from database 300 may be mirrored to locally distributed databases 301, 302 and 303. This interpretation is further supported by Galvin at column 9, lines 52-57, which state that "metadata portfolios would be continually updated automatically in corporate database 300 and distributed to local databases such as local database 303..." Thus Galvin makes clear that data flows into database 300 and metadata flows out of database 300, thereby making the bi-directional arrow indicate data flow, and not a reversible data conversion. Applicant further notes that nowhere does Galvin explicitly teach or suggest converting the metadata file into an object model as recited in Applicant's claim 1.

Additionally, Galvin does not teach or disclose an object model. Applicant has reviewed Galvin, including performing a computerized text search, and can find no references to an object model or object model equivalent.

For the above reasons, Galvin does not teach or disclose each and every element of Applicant's claim 1. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 1.

Claim 4 recites "wherein converting the metadata file includes creating a hash table of attributes names and attribute values from the metadata file." The Office Action states that a hash table is implicit (i.e. inherent) in Galvin, and refers to FIG. 1, elements 300-303. Applicant respectfully disagrees because the Office Action has not established a *prima facie* case of

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inherency because, as recited in MPEP § 2112, “In relying upon the theory of inherency, the examiner must provide basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art,” citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original).

The Office Action merely refers to databases 300-303 and provides no argument at all as to why it is implicit that databases 300-303 would disclose a hash table of metadata attributes. Thus, the Office Action does not even assert that the allegedly inherent characteristic is necessary, let alone provide a basis in fact and/or technical reasoning. Applicant respectfully submits that “creating a hash table of attributes names and attribute values from the metadata file” does not necessarily flow from Galvin because Galvin does not teach or suggest that databases 300-303 contain hash tables of metadata attribute names and attribute values.

To serve as an anticipation when a reference is silent about the asserted inherent characteristic, the gap in the reference may be filled with recourse to extrinsic evidence. But, such evidence must make clear that “the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.” *Continental Can Co. v. Monsanto Co.*, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). Applicant respectfully submits that the Examiner has not produced extrinsic evidence to show that the element “creating a hash table of attributes names and attribute values from the metadata file” as recited in claim 4 is necessarily present in Galvin.

In view of the above, Applicant respectfully requests reconsideration and the withdrawal of the rejection of claim 4.

§103 Rejection of the Claims

Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Galvin.

Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Galvin in view of Schoening et al. (U.S. 6,226,788).

Claims 5-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Galvin in view of Nicholson et al. (U.S. 6,631,519). Applicant does not admit that Nicholson is prior art, and reserves the right to swear behind it at a later date. Nevertheless, Applicant respectfully

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submits that the claims are distinguishable over Nicholson for the reasons argued below.

In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *M.P.E.P.* § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Claims 2-3 and 5-7 depend, directly or indirectly, on claim 1 and therefore inherit the elements of claim 1, including the recitation of "converting the metadata file into an object model having at least one object." As discussed above, Galvin fails to teach or disclose the recited language.

Applicant has reviewed Schoening and Nicholson, and can find no teaching or disclosure of the recited language. Thus none of Galvin, Schoening, or Nicholson teach or suggest all of the claim limitations of claims 2-3 and 5-7. As a result, claims 2-3 and 5-7 are non-obvious with respect to Galvin, Galvin in view of Schoening, and Galvin in view of Nicholson. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 2-3 and 5-7.

Additionally, with respect to claims 6-7, the Office Action states that Nicholson, at column 2, lines 5-11 and at column 1, lines 42-45 teaches "comparing by the router the objects of the object model to a runtime object model and updating the runtime object model with differences identified by the comparison." Applicant respectfully disagrees with this interpretation of Nicholson. Applicant notes that Nicholson, in the cited sections, refers to updating a runtime model if a component interface changes. However, Nicholson does not teach that a comparison is made to determine if the component interface has changed. Further, Nicholson does not teach or suggest "comparing the runtime object model to metadata in the metadata file" as recited in claim 7. Thus the combination of Galvin and Nicholson fails to teach or disclose each and every element of Applicant's claims 6 and 7. Applicant respectfully requests reconsideration and the withdrawal of the rejection of claims 6 and 7.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6954 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date February 6, 2006

By

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I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Rodney LacyFebruary 6, 2006
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